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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,784	06/04/2001	Mark Fagnani	2657,2007-001	2841
21005 7590 08/25/2008 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133				
EXAMINER				
IDOWU, OLUGBENGA O				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/873,784

Applicant(s)

FAGNANI ET AL.

Examiner

OLUGBENGA O. IDOWU

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-32, 34-64 and 66 - 67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-32, 34-64 and 66 - 67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3-32, 34-64 and 66 - 67 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's arguments on page 11 of the remarks, Alexander teaches determining the promotion to be displayed on the device and a relationship between the collected event data and displaying the promotion in col. 32, lines 30 – 34 and col. 30, lines 17 – 37. All these being done continually col. 29, lines 22 – 30.

In response to applicant's arguments on page 13 about claim 36, Alexander teaches analyzing and gathering viewer statistics col. 30, lines 1 – 37.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 15, 17- 20, 27 - 32, 34 –47, 49 - 52 and 58 - 64 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexandria, patent number: US 6 177 931 B1.

4. As per claims 1 and 34, Alexander teaches a method for reporting determined relationships counted impressions in at least one network device, comprising the steps of:

collecting event data pertaining to a network device (collecting user interaction information, col. 29, lines 14 - 21);

a life-cycle manager server for determining (i) which promotion is displayed on the network device (customized advertising, col. 32, lines 30 - 34), and (ii) a relationship between the collected event data and displaying the promotion, the determined relationship representing an effect of displaying the promotion on a viewer (analyzing viewer characteristics, col. 30, lines 17 - 37), and

a user interface for inquiring about the determined relationship between the collected event data and displaying the promotion (providing user information for analysis by advertisers, col. 33, lines 8 - 15, the information being about user interaction, col. 29, lines 31 - 55).

As per claims 3 and 35, Alexander teaches wherein the event data is correlated with demographics wherein the determined relationships includes a relationship between demographics and displaying the promotion, the determined relationship representing an effect of displaying the promotion, the determined relationship representing and effect of displaying the promotion on a viewer of a given demographic(demography, col. 30, lines 17 - 37).

As per claims 4 and 36, Alexander teaches wherein the determined relationship is determined from channel change events collected after the promotion is displayed (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 5 and 37, Alexander teaches wherein the determined relationship is determined from information as to whether a channel surfer stopped surfing after a promotion was displayed (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 6 and 38, Alexander teaches wherein the event data of each network device includes a channel on the network device (watching a particular channel, col. 29, lines 41).

As per claims 7 and 39, Alexander teaches wherein the event data includes a time at which the network device was tuned to the channel (watching a show at a specific time, col. 30, lines 59 - 67)

As per claims 8 and 40, Alexander teaches wherein the event data includes a time at which the network device was tuned away from the channel (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 9 and 41, Alexander teaches wherein the event data includes a connection between the network device and a peripheral (television and system components, col. 33, lines 14 - 21).

As per claims 10 and 42, Alexander teaches wherein the event data includes the viewing behavior of a viewer (viewer mannerism, col. 29, lines 56 - 67).

As per claims 11 and 43, Alexander teaches wherein the viewing behavior includes scrolling through a program guide (EPG interaction, col. 29, lines 39 - 40).

As per claims 12 and 44, Alexander teaches wherein the viewing behavior includes promotion acceptances (interest in product advertisement, col. 30, lines 20 - 21, 17 - 29).

As per claims 13 and 45, Alexander teaches wherein after the promotion is accepted another promotion is displayed such that a relationship between the collected event data and displaying of subsequent promotions is determined, the determined relationship representing an effect of displaying the subsequent promotions to the viewer (user information including interaction with advertisement, col. 30, lines 17 - 29, update, col. 29, lines 22 - 30).

As per claims 14 and 46, Alexander teaches wherein the viewing behavior includes time spent on a viewer activity (calculating the duration of each viewing, col. 29, lines 50 - 55).

As per claims 15 and 47, Alexander teaches wherein the network device periodically sends the event data to the data warehouse (information being sent to head end, col. 29, lines 14 - 21).

As per claims 17 and 49, Alexander teaches wherein the event data is represented in a compressed manner using a bit mask (information being sent to head end, col. 29, lines 14 - 21).

As per claims 18 and 50, Alexander teaches wherein the event data includes receipt of broadcast triggers (Triggers, col. 32, lines 51 - 54).

As per claims 19 and 51, Alexander teaches wherein the broadcast triggers are transmitted on a line 21 (Triggers, col. 32, lines 51 - 54).

As per claims 20 and 52, Alexander teaches wherein the event data includes receipt of triggers in MPEG streams (Triggers, col. 32, lines 51 - 54).

As per claims 27 and 59, Alexander teaches wherein the event data includes the scheduled time for the promotions (including triggers for commercial presentation, col. 32, lines 51 - 54).

As per claims 28 and 60, Alexander teaches wherein the event data includes the network location of the network devices (sending ads based on zip codes, col. 32, lines 42 - 44).

As per claims 29 and 61, Alexander teaches wherein the event data includes subsequent event data after a promotion was displayed (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 30 and 62, Alexander teaches wherein the subsequent data includes the display of a URL (interaction with the internet, col. 29, lines 40 - 42).

As per claims 31 and 63, Alexander teaches wherein the subsequent data includes additional channels to which the network device was tuned to (watched channels, col. 29, lines 31 - 55).

As per claims 32 and 64, Alexander teaches wherein the subsequent data includes the display of acceptance tags, and the response of the viewer to the display of the tags (general interest in product advertisement, col. 30, lines 17 - 29).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 21 – 26, 48, 53 – 57 and 66 - 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander, patent number: US 6 177 931 B1 in view of Zigmond, patent number: US 6 698 020 B1.

As per claims 16 and 48, Alexander teaches a system that monitors user's interactions with data displayed.

Alexander does not teach a system whereby viewed impressions are counted to determine relationships.

In an analogous art, Zigmond teaches a system monitors advertisements being viewed and send user interaction/information recorded to a headend for analysis (col. 9, lines 39 – 55, col. 13, lines 40 - 46)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Alexander with a system such as Zigmond ad insertion system, for the advantages sending advertisements that is more targeted towards specific viewers.

As per claims 21 and 53, Alexander teaches a system that monitors user's interactions with data displayed.

Alexander does not teach a system whereby the user device is configured to accept and reject promotions.

In an analogous art, Zigmond teaches wherein the system is configurable in terms of acceptance and rejection events of promotions based on thresholds configured dynamically through a central console, the configured promotion acceptance and rejection events are events in which the promotions are accepted or rejected respectively (ad filter, col. 15, lines 17 - 23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Alexander's user monitoring system by including a system that screens the incoming advertisements, as described in Zigmond ad selection system, for the advantages of maximizing storage space by only keeping relevant advertisements.

As per claims 22 and 53, the combination of Alexander and Zigmond teaches wherein the system includes a selected network device configured with the promotion acceptance and rejection events (Zigmond: ad filter, col. 15, lines 17 - 23).

As per claims 23 and 54, the combination of Alexander and Zigmond teaches wherein the system includes a group of network devices configured with the promotion acceptance and rejection events (Zigmond: ad filter, col. 15, lines 17 - 23, Alexander: sending ads based on zip codes, col. 32, lines 42 - 45).

As per claims 24 and 55, Alexander teaches wherein the promotion acceptance and rejection events are based on demographics of the viewers (Alexander: displaying commercial based on user, col. 33, lines 26 - 43).

As per claims 25 and 57, Alexander teaches wherein the promotion acceptance and rejection events are based on viewership patterns of the viewers (Alexander: assigning commercials based on what viewers watch, col. 33, lines 36 - 46)

As per claims 26 and 57, Alexander teaches wherein the promotions acceptance and rejection events are based on physical capabilities of network devices (sending ads based on zip codes, col. 32, lines 42 - 44, col. 26, lines 46 - 50).

As per claims 66 and 67, Alexander teaches a system that monitors user's interactions with data displayed.

Alexander does not teach a system that correlates the collected data to the promotion schedule.

In an analogous art, Zigmond teaches wherein the determined relationship includes an impression that is counted by correlating the collected event data to a promotion schedule (statistics collection for ads, col. 13, lines 40 - 47)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Alexander's user monitoring system by including a system that keeps track of the watched advertisements, as described in Zigmond's ad selection system, for the advantages of monitoring advertisement traffic.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/
Examiner, Art Unit 2623

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623